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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8943 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

DHOLKA MATSYA UCHAIR SAHKARI MANDALI LTD.

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 8943 of 2003
MR MITUL K SHELAT for Petitioner No. 1
MR SIRAJ GORI A.G.P. for Respondent No. 1-3

CORAM : HON'BLE MR.JUSTICE A.R.DAVE

Date of decision: 04/09/2003

ORAL JUDGEMENT

Rule. Mr.Siraj Gori learned A.G.P. waives
service of rule. At the request of the learned advocates
the petition is finally heard today.

2. The petitioner is a Co-operative Society of Fishermen, who are living in the vicinity of Dholka Taluka. In pursuance of the policy framed by the respondent authorities, Khan Talav was leased in favour of the petitioner - Society for a period of three years for the purpose of fishing. The said period of three years has already expired on 30.06.2003.

3. The petitioner has made a prayer that the said period of lease be renewed or alternatively, during the pendency of the petition, the petitioner - Society be permitted to harvest the fish which are in the reservoir by extending the period of lease for three months so that the petitioner can get the benefit of labour done by the members of the petitioner - Society.

4. In pursuance of the notice issued by this Court, learned A.G.P. Shri Gori appearing for the respondents has submitted that the Government - authorities have decided to change the policy with regard to giving ponds for fishing on lease to the Co-operative - Societies. It has been further submitted by him that possibly within a period of two to three months, the new policy will come into force and thereafter appropriate decision with regard to leasing the pond in question shall be taken by the concerned respondent.

5. Upon hearing the learned advocates, it appears that the respondent - authorities are not likely to take any decision for giving the pond on lease to anybody in a near future. In that event no useful purpose would be served by retaining the pond without giving it to anybody on lease. Looking to the facts of the case, and more particularly, when the petitioner - Society has still retained the possession of Khan Talav and as they have already implanted fish seeds, which are due for harvest, it would be just and proper to direct the respondent authorities to permit the petitioner Society to retain the possession of Khan Talav for a period of six months with effect from 1st July, 2003.

6. It has been submitted by the learned advocates that as per the lease deed, lease executed between the respondent - authorities and the petitioner - Society, a sum of Rs.3,850=00 per annum was being paid by the petitioner Society by way of lease rent. Looking to the price rise, it would be just and proper to direct the petitioner Society to pay 20% more than the amount of lease rent which the petitioner - Society had paid to the respondent - authorities. The petitioner - Society shall

make the payment of lease rent to respondent no.3 as stated hereinabove within a period of 15 days from today. Needless to say that this is an interim arrangement which has been made by virtue of this order. The petitioner Society has no legal and vested right to have the lease renewed in their favour after 01.01.2004. As stated hereinabove, grant of lease would be renewed by new policy of the Government.

In view of the above directions, the petition is partly allowed. Rule is made absolute to the above extent with no order as to costs.

[A.R. DAVE, J.]

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